

REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

By the foregoing amendment, claims 1-6, 8, and 11 have been amended, claim 12 has been canceled without prejudice or disclaimer for filing in a continuation application, and new claims 13-28 have been added. Thus, claims 1-11 and 13-28 are currently pending in the application and subject to examination.

In the Office Action mailed September 8, 2005, the Examiner objected to the drawings with regard to Figures 5, 7, 8, 9, and 10. Attached hereto are amended drawings for each of these figures. Responsive to these objections, FIG. 5 has been amended to present FIGs. 5A and 5B (with corresponding amendment of the specification), and FIGs. 8, 9, and 10 have been amended responsive to the objections with regard to these claims. With regard to FIG. 7, the Applicant has amended the drawing to correct typographical errors, and respectfully traverses the objection regarding reference characters L and N, as follows. The reference letters "L" and "N" are well known in the art to refer to "live" and "neutral" for power for the lamps, such powering of the lamps being described in the specification at least in the text spanning page 11, line 23 and page 12, line 5, as amended in the amendment to the specification above. If any additional amendment to overcome these objections is required or suggested, the Examiner is requested to contact the Applicant's undersigned representative.

The specification was also objected to. Responsive to the objections, attached hereto is a Substitute Abstract, and amendments have been made, as indicated above,

to the title and specification throughout. If any additional amendment to overcome these objections is required or suggested, the Examiner is requested to contact the Applicant's undersigned representative.

Claims 4 and 6 were objected to for informalities. Claims 4 and 6 have been amended responsive to the objection. If any additional amendment to overcome the objection is required or suggested, the Examiner is requested to contact the Applicant's undersigned representative.

Claims 5, 7, and 11 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claim 11 has been amended responsive to the rejection of that claim. With regard to the rejection of claims 5 and 7, the Applicant respectfully traverses the rejection as follows. The Examiner asserts that "[t]he recitation, 'an electrically conductive element carried by . . . main structure' of claim 4 is analogous to the recitation 'electrically conductive element is housed within said main support structure of claim 5' and that '[l]ikewise, claim 7 does not further limit claim 6. The Applicant submits that the phrase "carried by" is clearly broader than "housed by." For example, an electrically conductive element "carried by the main structure" could either be "housed within the main structure" or could be located on the outside of the main structure. For at least this reason, the Applicant submits that the objection is overcome. If any additional amendment is necessary to overcome this rejection, the Examiner is requested to contact the Applicant's undersigned representative.

The Examiner rejected claims 1-9 and 11 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,527,406 to Slesinger, et al., and rejected claim 1 under § 102(b) as being anticipated by U.S. Patent No. 4,771,583 to Ball. Under 35 U.S.C. §

103(a), the Examiner rejected claims 1-12 as being unpatentable over Slesinger in view of U.S. Patent No. 5,881,500 to Latino, et al. It is noted that claims 1-6, 8, and 11 have been amended, and claim 12 has been canceled. To the extent that the rejections remain applicable to the claims currently pending, the Applicant hereby traverses the rejection, as follows.

With regard to amended claim 1, the Applicant submits that none of Slesinger, Ball, or Latino, nor combination thereof, discloses or suggests at least the combination of limitations of at least two shelves, the shelves being in a back-to-back arrangement, and an electrical component mounted on or in each shelf, at least one of the support members being electrically connected to the electrical component on one of said shelves to form part of an electrical circuit to power the electrical component on that shelf, the electrical component on the other shelf being electrically connected to the same or a further electrically conductive path to power the electrical component on said other shelf, as claimed in claim 1, as amended. For at least this reason, the Applicant submits that claim 1 is allowable over the cited art.

As claim 1 is allowable, the Applicant submits that claims 2-11, 13, and 14, each of which depend from allowable claim 1, are likewise allowable.

For similar reasons to those provided with regard to claim 1, the Applicant submits that newly added claims 15 and 21 are each allowable over the cited art. As claim 15 is allowable, the Applicant submits that claims 16-20, each of which depend from claim 15, are each likewise allowable, and as claim 21 is allowable, each of claims 22-28, which depend from allowable claim 21, are likewise allowable.

With regard to each of the rejections under §103 in the Office Action, it is also respectfully submitted that the Examiner has not yet set forth a *prima facie* case of obviousness. The PTO has the burden under §103 to establish a *prima facie* case of obviousness. In re Fine, 5 U.S.P.Q.2nd 1596, 1598 (Fed. Cir. 1988). Both the case law of the Federal Circuit and the PTO itself have made clear that where a modification must be made to the prior art to reject or invalidate a claim under §103, there must be a showing of proper motivation to do so. The mere fact that a prior art reference could arguably be modified to meet the claim is insufficient to establish obviousness. The PTO can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. Id. In order to establish obviousness, there must be a suggestion or motivation in the reference to do so. See also In re Gordon, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984) (prior art could not be turned upside down without motivation to do so); In re Rouffet, 149 F.3d 1350 (Fed. Cir. 1998); In re Dembiczak, 175 F.3d 994 (Fed. Cir. 1999); In re Lee, 277 F.3d 1338 (Fed. Cir. 2002).

In the Office Action, the Examiner merely states that it would have been obvious to combine the cited reference so as to accomplish the advantages of the present invention. See, e.g., Office Action at page 8. No citation for motivation to make such combination is provided from the references or otherwise in the art. This is an insufficient showing of motivation.

CONCLUSION

For all of the above reasons, it is respectfully submitted that the claims now pending patentability distinguish the present invention from the cited references. Accordingly, reconsideration and withdrawal of the outstanding rejections and an issuance of a Notice of Allowance are earnestly solicited.

Should the Examiner determine that any further action is necessary to place this application into better form, the Examiner is encouraged to telephone the undersigned representative at the number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of time. The fee for this extension may be charged to our Deposit Account No. 01-2300. The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment associated with this communication to Deposit Account No. 01-2300 referencing Docket No.: **024794-00003.**

Respectfully submitted,

Arent Fox PLLC



Wilburn L. Chesser
Attorney for Applicant
Registration No. 41,668

Customer No. 004372

1050 Connecticut Ave., N.W.
Suite 400
Washington, D.C. 20036-5339
Telephone No. (202) 715-8434
Facsimile No. (202) 638-4810
WC/wb

Enclosures: Replacement Abstract
Replacement Drawings (3 sheets)